

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALLEN HAMMLER,

Plaintiff,

v.

DEMITRIOUS GRUBBS, et al.,

Defendants.

No. 2:23-cv-2770 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's motion for injunctive relief filed February 15, 2024. (ECF No. 16.) For the reasons stated herein, this court recommends that plaintiff's motion for injunctive relief be denied.

Legal Standard for Injunctive Relief

"A preliminary injunction is an extraordinary remedy never awarded as of right." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008). To qualify for injunctive relief, plaintiff must demonstrate: (1) a likelihood of success on the merits; (2) a likelihood that he will suffer irreparable harm without an injunction; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. Id. at 20. The Ninth Circuit has held that injunctive relief may issue, even if the moving party cannot show a likelihood of success on the merits, if "serious questions going to the merits" and a balance of hardships that tips sharply towards the plaintiff

1 can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a
2 likelihood of irreparable injury and that the injunction is in the public interest.” Alliance for the
3 Wild Rockies v. Cottrell, 632 F.3d 1127, 1135 (9th Cir. 2011). Under either formulation of the
4 principles, preliminary injunctive relief should be denied if the probability of success on the
5 merits is low. Johnson v. California State Bd. of Accountancy, 72 F.3d 1427, 1430 (9th Cir.
6 1995) (even if the balance of hardships tips decidedly in favor of the moving party, it must be
7 shown as an irreducible minimum that there is a fair chance of success on the merits.).

8 Background

9 *Claims On Which This Action Proceeds*

10 On January 10, 2024, the court ordered service of defendant Grubbs, a psychiatrist at
11 California State Prison-Sacramento (“CSP-Sac”), as to plaintiff’s retaliation and Eighth
12 Amendment inadequate medical care claims based on defendant’s alleged attempt to have
13 plaintiff involuntarily medicated with Risperidone. (ECF No. 10.) In the complaint, plaintiff
14 alleged that defendant Grubbs took these actions to prevent plaintiff from bringing lawsuits and
15 reporting sexual abuse. (ECF No. 1.)

16 *Pending Motion*

17 In the pending motion, plaintiff requests that the court order the California Department of
18 Corrections and Rehabilitation (“CDCR”) to retain plaintiff at CSP-Sac in the PHU-Z-Unit, the
19 administrative segregation (“ad seg”) unit, until a formal hearing can be held. (ECF No. 16 at 1.)
20 Plaintiff alleges that defendant Grubbs seeks to have plaintiff involuntarily medicated to stop
21 plaintiff from bringing lawsuits. (Id. at 3.) Plaintiff alleges that he engaged in nonviolent protests
22 regarding his involuntary medication that resulted in staff assaults. (Id.) Plaintiff appears to
23 claim that his protests are the only reason he has not been transferred. (Id. at 3-4.)

24 In the pending motion, plaintiff also alleges that he filed a motion for injunctive relief in
25 2:20-cv-1890 KJM JDP. (Id. at 4.) Plaintiff alleges that the magistrate judge in 2:20-cv-1890
26 refused to rule on his motion. (Id.) Plaintiff requests that the court order his retention at CSP-Sac
27 until the magistrate judge rules on his motion for injunctive relief filed in 2:20-cv-1890. (Id.)

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1 Discussion

2 This court first discusses the record in 2:20-cv-1890.¹ In 2:20-cv-1890, plaintiff brought a
3 variety of claims related to a gang murder of another inmate that he allegedly witnessed on March
4 9, 2019. (2:20-cv-1890 at ECF No. 28.) On February 1, 2023, plaintiff filed a motion for
5 injunctive relief seeking to enjoin defendants from transferring him to California State Prison-
6 Corcoran (“Corcoran”). (Id. at ECF No. 31.) Plaintiff claimed that being sent to Corcoran would
7 hamper his ability to litigate the action because the legal resources there were insufficient to
8 support his litigation. (Id. at ECF No. 31.) Plaintiff also claimed that his safety would be
9 endangered at Corcoran because he had a list of correctional officers at that institution whose
10 culpability would be at issue in 2:20-cv-1890. (Id. at ECF No. 31.) Plaintiff also claimed that
11 there were a greater number of prison gang members at Corcoran who belonged to the gang that
12 allegedly facilitated the murder at the center of 2:20-cv-1890. (Id. at ECF No. 31.)

13 In 2:20-cv-1890, on July 18, 2023, the magistrate judge recommended that plaintiff’s
14 motion for injunctive relief, filed February 1, 2023, be denied. (Id. at ECF No. 53.) On February
15 15, 2024, the Honorable Kimberly J. Mueller adopted the July 18, 2023, findings and
16 recommendations. (Id. at ECF No. 69.)

17 Contrary to plaintiff’s claim in the pending motion, his motion for injunctive relief filed in
18 2:20-cv-1890 is resolved. Moreover, the claims raised in 2:20-cv-1890 are unrelated to the
19 claims raised in the instant action. For these reasons, plaintiff’s pending motion for injunctive
20 relief on the grounds that the court failed to rule on his motion for injunctive relief filed in 2:20-
21 cv-1890 should be denied.

22 In the pending motion, plaintiff requests that the court order his retention at CSP-Sac until
23 a formal hearing can be held. Plaintiff does not explain the purpose of a formal hearing or
24 whether a formal hearing is scheduled. Plaintiff also fails to specifically address why he should
25 not be transferred away from CSP-Sac. Plaintiff also fails to address defendant Grubb’s
26 involvement in the transfer process.

27 _____
28 ¹ This court takes judicial notice of the record in 2:20-cv-1890 pursuant to Federal Rule of
Evidence 201.

1 Based on the vague and conclusory allegations in the pending motion, this court finds that
2 plaintiff fails to demonstrate that he is likely to suffer irreparable harm in the absence of an order
3 prohibiting his transfer until after a formal hearing, that he is likely to succeed on the merits, that
4 the balance of hardships tips in his favor or that an injunction would be in the public interest.

5 For all the reasons discussed above, this court recommends that plaintiff's motion for
6 injunctive relief be denied.

7 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall assign a
8 district judge to this action; and

9 IT IS HEREBY RECOMMENDED that plaintiff's motion for injunctive relief (ECF No.
10 16) be denied.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
13 after being served with these findings and recommendations, plaintiff may file written objections
14 with the court and serve a copy on all parties. Such a document should be captioned
15 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that
16 failure to file objections within the specified time may waive the right to appeal the District
17 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: March 6, 2024

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE
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